

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

IN RE PORK ANTITRUST LITIGATION

No. 0:21-md-02998-JRT-HB

GIANT EAGLE, INC.

Plaintiff,

No. 0:21-cv-01874-JRT-HB

v.

AGRI STATS, INC., *et al.*,

Defendants.

**[PROPOSED] ORDER ADOPTING
STIPULATION CONCERNING WAIVER OF SERVICE**

The parties in the above-styled action, through counsel, having stipulated and agreed, and the Court being fully advised,

IT IS HEREBY ORDERED THAT:

1. The Stipulation between Giant Eagle, Inc. (the “Stipulating Plaintiff”) and Defendants Agri Stats, Inc.; Clemens Food Group, LLC; The Clemens Family Corporation; Hormel Foods Corporation; Hormel Foods, LLC; JBS USA Food Company; Seaboard Foods LLC; Seaboard Corporation; Smithfield Foods, Inc.; Triumph Foods, LLC; Tyson Foods, Inc.; Tyson Prepared Foods, Inc.; and Tyson Fresh Meats, Inc. (collectively, the “Stipulating Defendants”) filed on September 3, 2021, is adopted by Order of the Court.

2. The Order and Stipulation relate only to *Giant Eagle, Inc. v. Agri Stats, Inc., et al.*, Case No. 0:21-cv-01874, ECF No. 1 (the “Complaint”).

3. Stipulating Plaintiff was transferred to this district pursuant to 28 U.S.C. § 1407 for centralized pretrial proceedings on August 19, 2021. (MDL No. 2998, ECF No. 80 (J.P.M.L. Aug. 19, 2021).)

4. The Stipulating Defendants waive service of the Complaint pursuant to Federal Rule of Civil Procedure 4(d), and the Stipulation shall be deemed proof of that waiver pursuant to Federal Rule of Civil Procedure 4(d)(4).

5. On July 1, 2021, the Court ordered the MDL Direct Action Plaintiffs (“MDL DAPs”) and Defendants to file their scheduling and coordination proposals. (Case No. 0:21-md-02998, ECF No. 3.) On July 8, 2021, MDL DAPs and Defendants filed their coordination and scheduling proposals. (ECF Nos. 4-5.) The Court held a status conference on these proposals on July 14, 2021. On August 5, 2021, the Court ordered the Direct Purchaser Plaintiffs from Case No. 0:18-cv-1776, MDL DAPs, and Defendants to “file simultaneous briefs addressing the question of consolidation” of the MDL DAPs with Case No. 0:18-cv-1776. (ECF No. 23.) On August 19, 2021, the parties filed briefs regarding consolidation versus coordination. (ECF Nos. 31-37.)

6. Stipulating Plaintiff agrees that the deadline for the Stipulating Defendants to answer or respond to the Complaint is extended pending the Court’s resolution of the above scheduling issues. The Stipulating Defendants’ responses to the Complaint shall be due sixty (60) days after the Court’s ruling on the above scheduling issues, unless otherwise ordered by the Court or agreed between the Stipulating Plaintiff and Stipulating Defendants.

7. Nothing in the Stipulation precludes Stipulating Defendants from filing one or more motions under Federal Rule of Civil Procedure 12(b).

8. The Stipulation does not constitute a waiver by the Stipulating Defendants of any defense, including but not limited to those defenses provided under Federal Rule of Civil Procedure 12.

SO ORDERED:

DATED: _____

The Honorable John R. Tunheim
Chief Judge United States District Court